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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/511,967 | 04/12/2005 | Alistair Royse | 3029-000083/NP | 8471 |
| 27572 7590 07/02/2009 HARNESS, DICKEY & PIERCE, P.L.C. P.O. BOX 828 BLOOMFIELD HILLS, MI 48303 | | | | |
| EXAMINER | | | | |
| MAL HAO'D | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 3732 | | | | |
| MAIL DATE | | DELIVERY MODE | | |
| 07/02/2009 | | PAPER | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/511,967

Applicant(s)

ROYSE ET AL.

Examiner

HAO D. MAI

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6 and 22-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6, 22-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claim 6 is rejected under 35 U.S.C. 102(b) as being anticipated by Daniel (5,297,538).**

Regarding claim 6, Daniel '538 discloses a surgical retractor 1 (Figs. 1-2) having two arms 2/12 and 4/12 each adapted to carry a blade 64 capable of engaging with one side of an incision. The two arms are being connected by a pivot 6 at one end portion such that the arms can be pivoted between a close position and an adjustable open position in which the arms define a substantially V-shaped configuration in which the blades are capable of maintaining the sides of the incision in inclined relation. The retractor further comprises means 30/32 for retaining the arms in the open position (Fig. 1). The blade 64 is shown to have a mounting portion 14 (Fig. 1) that is engageable on the arm so as to at least partially surround the arm and displaceable longitudinally along the arm. The arm is shaped to provide a series of abutment edges 50 spaced in the longitudinal direction of the arm and engageable with a part of the mounting portion 14 of the blade so as to lock the mounting portion to the arm against displacement from a selected position along the arm at least in one longitudinal direction. The arm is of polygonal cross-section (rectangular at 12). As to the newly recited limitation(s), note that Figure 2 clearly shows the mounting portion 14 having an inner surface 52 of a diameter slightly greater than that of the arm. When the mounting portion 14 is held substantially parallel to the arm it is capable of sliding longitudinally along the arm into a selected position on the arm.

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When the mounting portion 14 is skewed slightly relative to the arm it is capable of engaging one of the abutment edges 50 to thereby provide the said lock for the mounting portion.

3. Claims 6 and 22-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Daniel (5,529,571).

Daniel '571 discloses a retractor (refer to Figures 7-9) comprising: two arms 2/12 and 4/12 each adapted to carry a blade 14 engageable with one side of an incision, the two arms being connected by a pivot 6 at one end portion such that the arms can be pivoted between a closed position and an adjustable open position in which the arms define a substantially V-shaped configuration in which the blades maintain the sides of the incision in inclined relation. The retractor has means 30/32/40 for retaining the arms in the open position. Each blade 14 (best shown in Figure 7) is shown to have a mounting position 58 engageable on the arm (at arm portion 12) and wherein the arm 12 is shaped to provide a series of abutment edges 50 spaced in the longitudinal direction of the arm and engageable with a part of the mounting portion 58 of the blade so as to lock the mounting portion to the arm against displacement from a selected position along the arm at least in one longitudinal direction (Fig. 7 column 3 lines 33-53). Figure 7 also shows the mounting portion 58 having an inner surface 60 of a diameter slightly greater than that of the arm whereby when the mounting portion is held substantially parallel to the arm it is slidable longitudinally along the arm into a selected position on the arm; and when the mounting portion is skewed slightly relative to the arm, the mounting portion 58 is capable of engaging an adjacent one of the abutment edges to thereby provide said lock for the mounting portion.

As to claims 22-27, the arm 12 is of polygonal cross-section of at least six sides and the abutment edges 50 are defined by a series of grooves positioned to intersect at least some of the corner portion of the polygonal cross-section; the inner surface 60 of the mounting portion

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58 is formed with multiple longitudinal grooves 60 for engaging the grooves 50 on the arm. The internal surfaces 60 of the mounting portion correspond to the cross-sectional shape of the arm 12; and that the mounting portion is able to rotate about the axis of the arm, i.e. when tabs 62 and 64 are pressed to enlarge the diameter of 58 (Fig. 7; column 3 lines 44-47). Not that the blade 14 and its mounting portion 58 is of one-piece construction.

Response to Arguments

4. Applicant's arguments regarding the new amendment(s) to the claim 6 have been considered but are not persuasive and/or moot in view of the new ground(s) of rejection. The newly recited limitation(s) in claim 6 fail to overcome the cited prior art Daniel '538. Note that Daniel '538 shows the inner surface 52 of the mounting portion 14 is of a diameter slightly greater than that of arm 12 in order to the mounting portion to wrap around arm 12. The mounting portion 14 is slidable along the arm when in parallel relation to the arm; and is capable of engaging the abutment edges 50 via serrations 50 when skewed slightly relative to the arm. Note that the claim does not recite what constitutes "skewed slightly". Daniel '538 can be read as the mounting portion is skewed slightly, at least at serrations 56, relative to the arm 12.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated

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from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HAO D. MAI whose telephone number is (571)270-3002. The examiner can normally be reached on Monday-Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached on (571) 272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Hao D Mai/
Examiner, Art Unit 3732

/Cris L. Rodriguez/
Supervisory Patent Examiner, Art Unit 3732